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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,717	04/02/2002	Robert John Pannekoek	02-313	2705

7590

03/13/2003

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EXAMINER

HEWITT, JAMES M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/089,717	<b>Applicant(s)</b> PANNEKOEK, ROBERT JOHN	
	<b>Examiner</b> James M Hewitt	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 April 2002 and 19 December 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> | 6) <input checked="" type="checkbox"/> Other: <u>Attachments A and B</u>    |

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

Applicant is reminded of the proper language for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided.

On lines 2 and 4 of the abstract published with the international application, "interconnecting means" constitutes legal phraseology.

The disclosure is objected to because of the following informalities:

✓ On page 1, the first word of the title should be "ELONGATE" and not "ELANGATE".

✓ On page 4 line 5, "fourth apertures 24" should be "fourth apertures 34".

✓ On page 5 line 7, "fifth apertures 42" should be "fifth apertures 40".

✓ On page 5 lines 14-16, the first and second elongate portions are said to be parallel to each other in the first orientation, as shown in Figures 1 and 7. From Figures 1 and 7, it is clear that in the portions are not parallel but rather coaxial with one another (also see the claim objection of claim 2 lines 2-3 below).

Appropriate correction is required.

***Claim Objections***

Claims 2, 4, 6, 8 and 9 (and the dependent claims of each) are objected to because of the following informalities:

✓ In claim 2 lines 2-3, the outer elongate portion is said to be substantially parallel to the inner elongate portion in a first position. From the drawings it is apparent that in the first position (Figures 1 and 7), the portions are not parallel to one another, but rather coaxial and aligned. For examination purposes, the Examiner has interpreted claim 2 to require that the two portions are coaxial rather than parallel.

✓ In claim 2 lines 3-4, it is apparent that "a second portion" should be "a second position".

✓ In claim 4 lines 3-4, it is apparent that "inner elongate member" should be "inner elongate portion".

✓ In claim 4 lines 5-6, it is apparent that "outer elongate member of" should be "outer elongate portion at".

✓ In claim 6 line 6, a comma should be inserted after "means".

✓ In claim 8 line 6, it is apparent that "the first elongate portion" should be replaced with "the inner elongate portion".

✓ In claim 8 lines 6-7, it is apparent "the second elongate portion" should be replaced with "the outer elongate portion".

✓ In claim 8 line 11, it is apparent that "inner elongate member" should be "inner elongate portion".

✓ In claim 8 line 12, it is apparent that "outer elongate member" should be "outer elongate portion".

✓ In claim 9 line 3, it is apparent that "outer elongate member" should be "outer elongate portion".

✓ In claim 9 line 3, it is apparent that "inner elongate member" should be "inner elongate portion".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6 line 7, the phrase "the fist and second elongate members" lacks antecedent basis. Should the phrase be "the outer and inner elongate portions"? For examination purposes, claim 6 will be read as if the phrase "the outer and inner elongate portions" were used.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hart (US 1,526,336).

With respect to claim 1, Hart discloses an elongate member for locating an article (in Figure 1, the pipe shown in phantom connected to pipe section 4) remote from a base position (in Figure 1, defined by the pipe shown in phantom connected to pipe section 6), characterized in that the elongate member comprises an inner elongate portion (6), the inner elongate portion extending, in use, from the base position, an outer elongate portion (4), the outer elongate portion being arranged to receive the article, and interconnecting means (flanges 2 and bolts 3), the interconnecting means being arranged to connect the inner elongate portion to the outer elongate portion and to permit relative rotation of the inner and outer portions about an axis of rotation (see Attachment A), the axis of rotation being disposed at an acute angle (45 degrees; see lines 52-53) relative to a longitudinal axis (see Attachment A) of the inner elongate portion.

Elongate portion (6) is considered to be "inner" in that it is situated more closely to the lower pipe shown in phantom. Elongate portion (4) is considered to be "outer" in that it is situated further from the lower pipe shown in phantom relative to portion (6).

Loosening or removal of bolts (3) would permit relative rotation of the inner and outer portions about the axis of rotation.

Note that the Examiner has not considered the phrase "interconnecting means" to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph.

With respect to claim 2, wherein the outer elongate portion (4) is arranged to move between a first position (shown in Figure 1) whereby the outer elongate portion is substantially coaxial with the inner elongate portion and a second position whereby the outer elongate portion is substantially perpendicular to the inner elongate portion.

The outer elongate portion, after loosening or removal of the bolts (3) and rotating the outer portion and its flange 180 degrees relative to the inner portion and its flange, would be oriented perpendicular to the inner elongate portion. The bolt holes, as they are symmetrical about their respective flanges (2), would be aligned, and the bolts could be re-engaged therein to secure the outer elongate portion to the inner elongate portion.

With respect to claim 3, wherein the acute angle is 45 degrees and therefore between 30 and 60 degrees.

With respect to claim 4, wherein the interconnecting means includes a first plate member (flange 2) fixedly attached to the inner elongate portion (6) at an end remote from the base position, and a second plate member (flange 2) fixedly attached to the outer elongate portion (4) at an end remote from the article wherein, in use, the first plate member is located adjacent the second plate member (see Figure 1).

With respect to claim 5, wherein the first plate member has an upper surface and the second plate member has a lower surface, the upper surface of the first plate member being adjacent the lower surface of the second plate member in use, and the axis of rotation being perpendicular to the upper surface of the first plate member (see Attachment A).

With respect to claim 6, wherein the interconnecting means includes a fixing means (bolts 3), the fixing means being arranged to releasably engage the first plate member and the second plate member such that, in use, when the first and second plate members are engaged by the fixing means, relative rotation of the outer and inner elongate portions is restricted.

Note that the Examiner has not considered the phrase "fixing means" to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph.

With respect to claim 8, wherein the first plate member has at least one aperture (a bolt hole), and the second plate member has at least one aperture (a bolt hole), and wherein the aperture of the first plate member is adjacent to the aperture of the second plate member when the inner elongate portion and the outer elongate portion are arranged in a particular position (e.g. the position shown in Figure 1), and wherein the interconnecting means includes a pin member (a bolt 3) arranged, in use, to locate within the aperture of the first plate and the aperture of the second plate and thus restrict relative rotation of the inner elongate portion and the outer elongate portion.

With respect to claim 9, wherein the second plate member has a first aperture and a second aperture (bolt holes) and wherein rotation of the outer elongate portion



relative to the inner elongate portion causes an aperture of the first plate member initially adjacent the first aperture of the second plate member to be subsequently adjacent the second aperture of the second plate member.

Rotating the outer portion and its flange 180 degrees relative to the inner portion and its flange, would cause a bolt hole of the first plate member, which prior to rotation would be initially adjacent one bolt hole of the second plate member, to be subsequently, after rotation, adjacent a second bolt hole of the second plate member.

Claims 1 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Jendrewski et al (DE 29 18 532).

With respect to claim 1, Jendrewski et al discloses an elongate member for locating an article (1) remote from a base position (the ground or earth), characterized in that the elongate member comprises an inner elongate portion (parts 3 and 4), the inner elongate portion extending, in use (when ground stake 28 has been inserted into the ground), from the base position, an outer elongate portion (2), the outer elongate portion being arranged to receive the article (see Figure 1), and interconnecting means (see Figures 2 and 4 and Attachment B), the interconnecting means being arranged to connect the inner elongate portion to the outer elongate portion and to permit relative rotation of the inner and outer portions about an axis of rotation (B), the axis of rotation being disposed at an acute angle relative to a longitudinal axis (A) of the inner elongate portion (see Figures 2 and 4).

Elongate portion (3/4) is considered to be "inner" in that it is situated more closely to the stake or ground, when in use. Elongate portion (2) is considered to be "outer" in that it is situated further from the stake or ground relative to portion (3/4).

Note that the Examiner has not considered the phrase "interconnecting means" to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph.

With respect to claim 10, wherein the interconnecting means includes a cylindrical portion arranged to be coaxial with the axis of rotation, and wherein the cylindrical portion extends from the inner elongate portion and wherein the outer elongate portion includes an aperture arranged to receive the cylindrical portion. Refer to Figure 2 and Attachment B.

With respect to claim 11, wherein the article includes a light source (1).

With respect to claim 12, wherein the inner elongate portion is arranged to be mounted to a surface at the base position. After the stake or spike (28) is inserted into the ground, the inner portion (3/4) is engaged with or mounted to the surface of the ground. Therefore, the spike allows the inner portion to be mounted to the ground's surface, which is located at the base position.

***Allowable Subject Matter***

Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art found and considered by the Examiner does not disclose, singly or in combination, the elongate member as claimed in detail in claim 7. The prior art fails to teach or fairly suggest the interconnecting means, which permits relative rotation of the inner and outer portions about an acute axis of rotation, and comprises: first and second plate members; a fixing means which is arranged to releasably engage the first plate and the second plate such that when the first and second plates are engaged by the fixing means, relative rotation of the inner and outer portions is restricted; the fixing also including a third plate member having a central aperture and being arranged to locate about the outer portion adjacent the second plate, wherein adjustable connection means is arranged to connect the first plate and the third plate such that tightening of the adjustable connection means engages the fixing means.

It should be noted that the Examiner considers the claimed fixing means to include and correspond to both the pin member 38 (described as the second fixing means in the specification) and the third plate member (22). The fixing means of claim 6 describes and corresponds only to the pin member (38), as the third plate member does not engage the first and second plate members to restrict rotation of the inner and outer portions.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davlin, Pascale, Curtis, Glover et al, James, Marco, Mair, Burke,

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Kirkpatrick, Hammond, Butler, Sutton, Pagels and Gelli (GB 08,708) all constitute prior art device considered by the Examiner to be relevant to the claimed invention(s).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

*jmh*  
jmh  
March 5, 2003

*James M. Hewitt*  
James M. Hewitt  
Patent Examiner  
Technology Center 3600

Feb. 17, 1925.

1,526,336

P. F. HART  
PIPE CONNECTION  
Filed Feb. 26, 1924

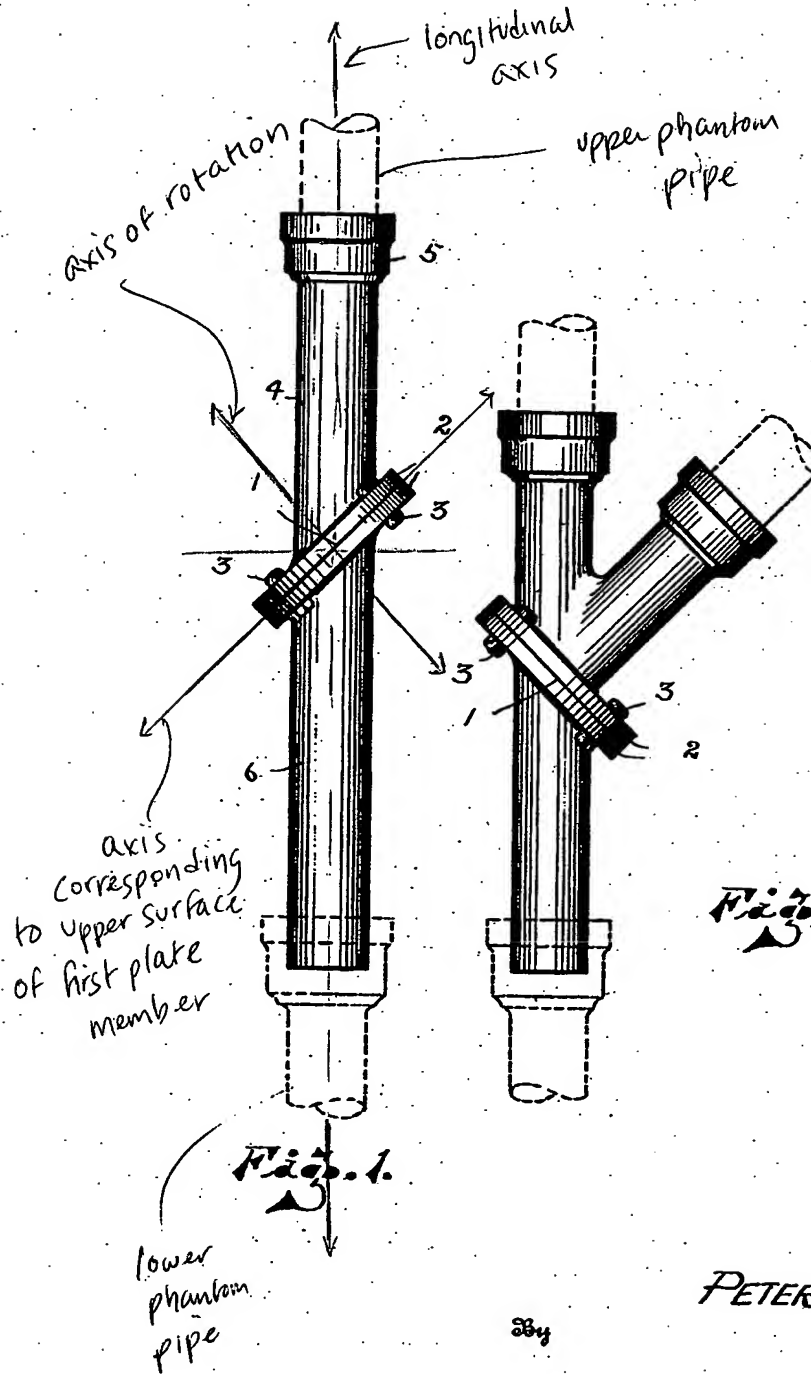


Fig. 2.

Fig. 1.

Inventor.

PETER F. HART.  
*[Signature]*

Attorney

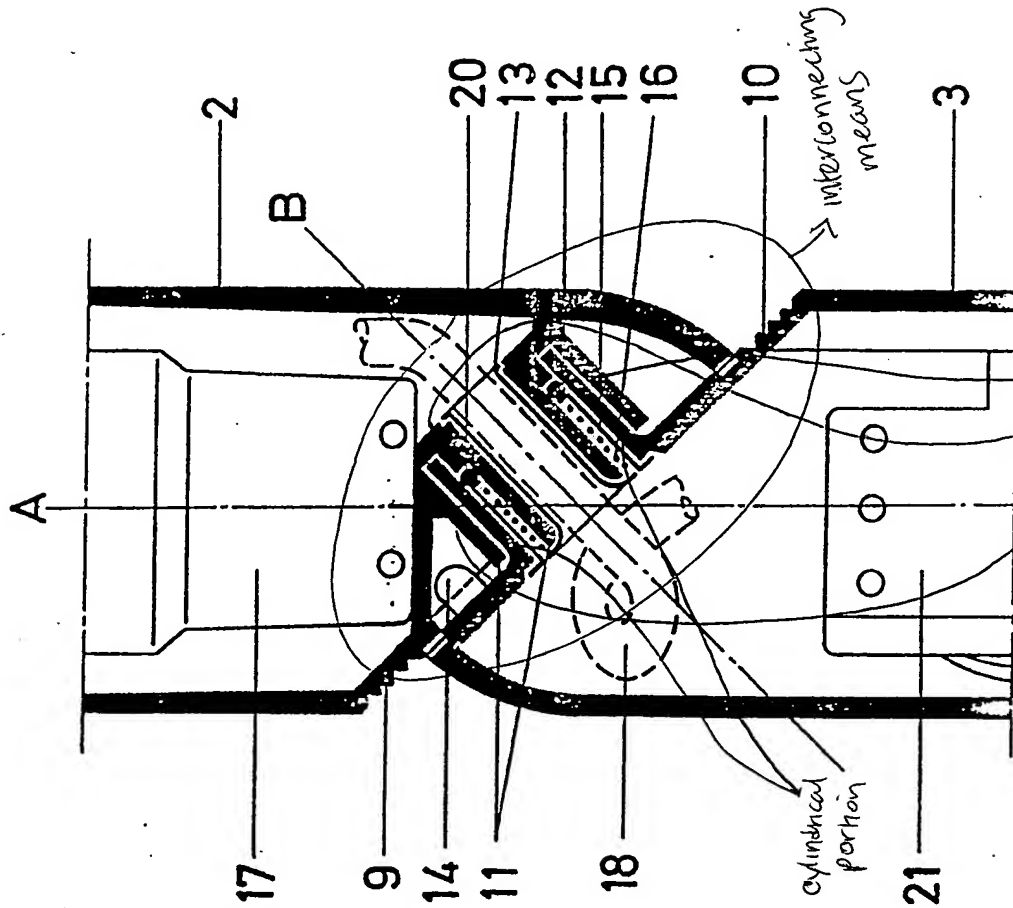


FIG. 2

this structure forms an aperture which holds/houses the cylindrical portion

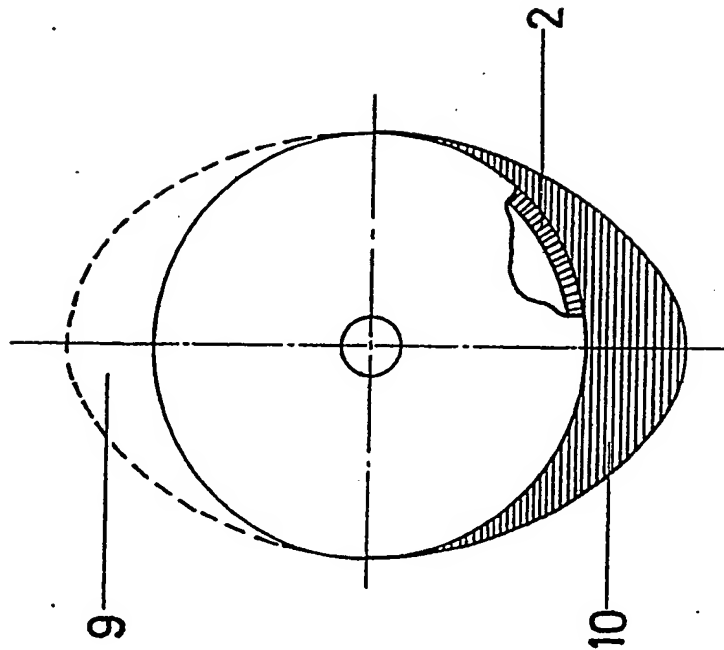


FIG. 3